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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,564	04/27/2001	Ming Yu Chang	01-03-1627	1790

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EXAMINER

COCKS, JOSIAH C

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 12/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/844,564

Applicant(s)

CHANG, MING YU

Examiner

Josiah Cocks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on response filed 9/17/2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-15 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 7, 10-13 and 17 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 5, 6, 8, 9, 14, and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Applicant's Response

1. Receipt of applicant's response filed 9/17/2004 is acknowledged. By this response applicant has provided a new declaration incorporating changes that correct the previous defective reissue declaration. Claims 1-15 and 17 are now ready for examination in this reissue application. Accordingly, pursuant to 37 CFR 1.176 the claims have been "examined in the same manner as a non-reissue, non-provisional application." The findings of this examination follow.

Reissue Applications

2. Applicant is reminded of the continuing obligation under 37 CFR 1.178(b), to timely apprise the Office of any prior or concurrent proceeding in which Patent No. 5,897,307 is or was involved. These proceedings would include interferences, reissues, reexaminations, and litigation.

Applicant is further reminded of the continuing obligation under 37 CFR 1.56, to timely apprise the Office of any information which is material to patentability of the claims under consideration in this reissue application.

These obligations rest with each individual associated with the filing and prosecution of this application for reissue. See also MPEP §§ 1404, 1442.01 and 1442.04.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4, 7, 10-13, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,597,299 to Jon ("Jon") in view of U.S. Patent No. 5,096,414 to Zellweger ("Zellweger") (both references already of record, see PTO-892 mailed 3/8/2002, part of paper #7).

Jon discloses in Figures 1-4 a disposable lighter similar to, and in the same field of endeavor as, the lighter described in applicant's claims 1, 4, 7, 10-13, and 17. In particular, Jon shows a disposable lighter, comprising:

- a lighter body (1) for receiving a liquefied fuel therein;
- a mounting frame (6), which is sealedly affixed on top of said lighter body, comprising a first and a second supporting wall upwardly extended from two sides of said mounting frame, said mounting frame further having a vertical spring chamber between said first and second supporting walls (see Fig. 2);
- a flint spring (5) being received in said spring chamber;
- a gas lever (3) being pivotally mounted between said first and second supporting walls and having a central cutout to allow said spring penetrating therethrough to insert into said spring chamber, said gas lever further integrally providing a thumb pusher at one end thereof (see Fig. 2);
- a gas valve with a gas nozzle (2), said gas nozzle being engaged with an end of said gas lever, to permit release gas from an interior of said lighter body via said gas valve;
- an ignition device comprising a flint (4) and a striking wheel (7), said striking wheel having a circumferential coarse striking surface being positioned right above and in contact with said flint and rotatably mounting between said first and second supporting walls, wherein said striking wheel further comprising two circular discs (8) located at said two sides of said striking surface, each of said circular discs having a

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circumferential surface and positioned within each of said two gaps formed between said first and second supporting walls and said striking wheel (**see Figs. 1 and 2**); and

a U-shaped wind shield mounted on said first and second supporting walls to cover said gas nozzle and said first and second supporting walls said wind shield having an all around vertical U-shaped side wall which has a round end portion and two wing portion extending from said round end portion, a top wall horizontally and inwardly extending from a top side of said round end portion of said U-shaped side wall and defining a cutout right above said gas nozzle, and a first and a second L-shaped bent-edge member which are respectively and perpendicularly bent from a top side and an end side of said wing portions, wherein said first and second bent-edge members are respectively extended from said top wall along said top side and said end side of each of said wing portions for fittedly and respectively resting on a horizontal top edge and a vertical rear edge of each of said first and second supporting walls, a top end corner of each of said wing portions forming a curved corner which has a curvature matching with at least a quarter of a circumference of said striking wheel, so that said striking wheel is sidewardly covered by said two wing portions of said windshield, (**see unnumbered wind shield portion with cutout illustrated in Fig. 1**).

In regard to the recitation in the claims (e.g. claim 17) that the circular discs are integrally formed on the side of the striking wheel, this relationship is shown at least in Fig. 5.

Jon does not disclose that the wind shield includes two protecting bent-edge members that cover the gaps formed between the striking wheel and the first and second supporting walls.

Zellweger teaches a disposable lighter in the same field of endeavor as Jon. In Zellweger, the lighter includes a striker wheel and surrounding circumferential discs (7 and 8). A wind shield portion (9) surrounds the striker wheel and discs and includes two bent edge members (12 and 13) that are inwardly extended (see Fig. 3). The edges are provided as a child safety feature in preventing a child's finger from being able to access the striker wheel (see col. 2, lines 12-23).

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In regard to the recitation in the claims as to the radius of the curved edges of the wind shield compared to the striker wheel, the radii shown and the size relationship to the striker wheel shown in Jon in applicant's Figures and is considered to meet the limitations of the claims. Alternatively, the radius of the wind shield curvature shown in Jon appears to be slightly less than that of the striker wheel (see Fig. 5). Whereas in Zellweger, the radii are equal (see Fig. 2). It would be obvious to a person of ordinary skill in the art at the time the invention was made to select equal radii as this radii is well recognized in the art when selecting a wind guard that extends above the striker wheel.

Therefore, in regard to claims 1, 4, 7, 10-13, and 17, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the lighter of Jon to incorporate the bent edge portions taught in Zellweger for the desirable purpose of forming a child safety arrangement that restricts the ability of a child's finger from coming into contact with the ignition mechanism (see Zellweger, col. 2, lines 12-30).

Allowable Subject Matter

5. Claims 2, 3, 5, 6, 8, 9, 14, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (571) 272-4874. The examiner can normally be reached on weekdays from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter, can be reached at (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Any questions on access to the Private


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PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197
(toll-free).

jcc
September 20, 2005



JOSIAH COCKS
PRIMARY EXAMINER
ART UNIT 3749